

REMARKS

The Office Action mailed on May 09, 2008, has been reviewed and the comments of the Patent and Trademark Office have been considered.

Applicants respectfully submit that the present application is in condition for allowance for the reasons that follow.

Indication of Allowable Subject Matter

Applicants thank Examiner Luong for allowing claims 1-8 and 19-28.

Interviews of July 7-9, 2008

Supervisor Ridley is thanked for extending the courtesy of a series of telephone interviews to Applicants' representatives during the week of July 07, 2008, where it was agreed that the objections would be withdrawn.

In view of these telephone interviews, Applicants submit that the above provides a complete and proper recordation of the substance of the interview, per MPEP §713.04.

Drawing Objections

The drawings are objected to as allegedly being inconsistent with the specification in view of the recitation of "Q" in the specification. Applicants again respectfully traverse this objection. "P" (as opposed to P_1 , P_2 , etc.) and "Q," as used in the specification, are not reference characters, but are instead variables akin to variables in an equation, and thus 37 C.F.R. §1.84(p)5 does not require the showing of "Q" (or "P") in the figures.

The use of variables "P" and "Q" is merely shorthand to convey information about examples of rods according to the invention, the information about these examples being detailed in the tables of the application. The specification makes this clear at page 31, by explaining that for the examples presented in the tables, structures "were observed at two portions, portion P of the smallest cross sectional area in connecting beam section B and portion Q having a cross sectional area 1.5 times larger than that of portion P of the smallest cross sectional area." In sum, it is not necessary to show "Q" in the figures. Supervisor Ridley agreed that this was the case during the July interviews discussed above.

* * * *

The drawings are also objected to as allegedly failing to provide referential numerals or characters for "the lowest fatigue strength portion and the variable fatigue strength portion in claim 19." Applicants also traverse this objection. The identified claim recitations are properties of the structure of claim 19, and thus do not need to be identified with a reference numeral/character. Just as one does not need to label with a reference number, in a drawing of an engine, the minimum or maximum RPM of an engine, or a minimum or maximum compression pressure in a cylinder of the engine, one does not need to label "a lowest fatigue strength portion which is the lowest in fatigue strength exists in at least one of the big and small ends, and a variable fatigue strength portion which varies in fatigue strength exists in each of the first and second joining sections and in the connecting beam section." These are properties, and thus do not need to be labeled in the drawings.

Further, these recitations are recited to detail the fact that the fatigue strength is not uniform within the connecting rod. Also, the recitations regarding the variable fatigue strength address the fact that there is no abrupt change in fatigue strength from the lowest fatigue strength portion, but, instead, there is a portion other than the lowest fatigue strength portion that varies in fatigue strength as the fatigue strength changes (increases) from the lowest fatigue strength portion.

Another point, Applicants respectfully submit that there is no requirement in 37 C.F.R. that all claim elements, even if pure structure, must be labeled in the drawings with

reference numerals/characters. Instead, it is sufficient that the drawings show each element of the invention as claimed. (C.F.R. §1.84(p), entitled “Numerals, Letters, and Reference Characters,” does not state that all claim elements must be labeled, only that reference characters mentioned in the specification must be shown in the drawings.)

Regarding the alleged deficiencies of the various claimed features of claim 19, again, these are properties, and thus do not need to be shown. However, to the extent that a requirement exists, even in the abstract, to at least provide schematic representation of these features, it is respectfully submitted that the drawings do indeed show every feature of the invention as claimed. For example, Figure 1, in view of the teachings of the specification at page 24, lines 6-20, depicts a connecting rod having a lowest fatigue strength portion in at least one of the big and small ends 20 and 60. Figure 1, also in view of the teachings of the specification, also depicts a variable fatigue strength portion in each of the first and second joining sections 30 and 50 and in the connecting beam section 40.

Reconsideration regarding the drawing objections is respectfully requested.

Specification Objections

The specification is objected to as allegedly being inconsistent with the drawings in view of the use of the “Q” in the specification. As explained above, there is no inconsistency between the drawings and the specification, as “Q” is merely shorthand to convey exemplary data.

Request for Rejoinder of Withdrawn Claims

Claims 9-18 are also withdrawn. These claims are *method claims drawn to a method of making the apparatus of claim 1*. Pursuant to MPEP § 821.04 and *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995), it is respectfully requested that these claims be rejoined and considered, since MPEP § 821.04 states that “when a product claim is found

allowable, applicant may present claims directed to the process of making and/or using the patentable product."

Conclusion

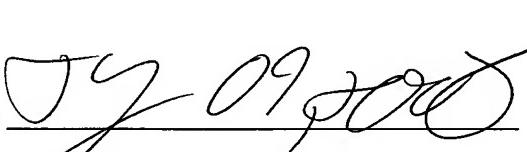
Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Examiner Luong is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date



By



Martin J. Cosenza
Attorney for Applicant
Registration No. 48,892

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4747
Facsimile: (202) 672-5399